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T-MOBILE USA, INC.

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

MILTON CARDOZA, on Behalf of Himself  
and Others Similarly Situated,

Plaintiffs,

v.

T-MOBILE USA, INC.,

Defendant.

Case No.: CV08-5120 SC

STIPULATION AND ~~PROPOSED~~  
ORDER TO WAIVE ARGUMENT ON  
T-MOBILE'S MOTION TO TRANSFER  
AND TO CONTINUE INITIAL CASE  
MANAGEMENT CONFERENCE

WHEREAS, Plaintiff filed his complaint in the above-titled action on November 10, 2008;

WHEREAS, on January 15, 2009, the Court "so ordered" the parties' stipulation and agreement that T-Mobile's time to answer, move to dismiss under Federal Rule of Civil Procedure 12, or otherwise respond to the complaint be extended until the Court has ruled on T-Mobile's motion to transfer this action to the Western District of Washington or, in the alternative, to dismiss or stay the instant action on the same grounds (the "Motion to Transfer")

WHEREAS, on January 16, 2009, T-Mobile filed its Motion to Transfer;

WHEREAS, on February 9, 2009, Plaintiff filed his opposition to the Motion to Transfer;

WHEREAS, T-Mobile will file its reply in further support of the Motion to Transfer by February 20, 2009, at which time the motion will be fully briefed;

WHEREAS, oral argument on the Motion to Transfer is currently scheduled for March 6, 2009 before this Court; and

WHEREAS, an initial case management conference is also scheduled for March 6, 2009;

IT IS HEREBY STIPULATED AND AGREED among the parties, through their respective counsel of record, that

1. The parties waive oral argument on the Motion to Transfer and submit the motion on the papers; and

2. The parties request that the initial case management conference currently set for March 6, 2009 be continued to April 3, 2009, as the parties believe that the Motion to Transfer should be decided before the Court and parties address case management issues.

Dated: February 18, 2009

DAVIS POLK & WARDWELL

By: /s/ Christopher B. Hockett  
Christopher B. Hockett

Attorneys for Defendant T-Mobile

Dated: February 18, 2009

LAW OFFICE OF PETER FREDMAN

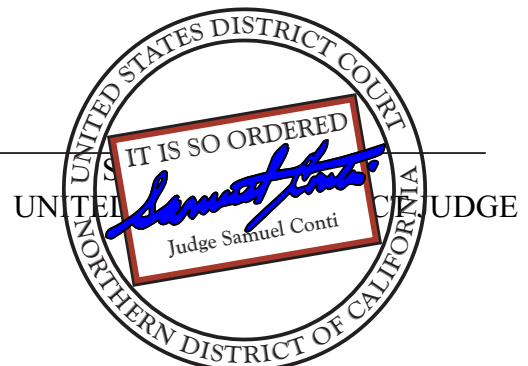
By: /s/ Peter B. Fredman  
Peter B. Fredman

Attorneys for Plaintiff

\* \* \*

IT IS SO ORDERED.

Dated February 19, 2009



**ATTESTATION**

Pursuant to General Order No. 45, I hereby attest that I have concurrence to file this Stipulation and [Proposed] Order to Waive Argument on T-Mobile's Motion to Transfer and to Continue Initial Case Management Conference from the other signatory whose signature is indicated by a "conformed" signature (/s/) within this e-filed document.

/s/ Christopher B. Hockett  
Christopher B. Hockett